

SENATE BILL No. 382

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-31; IC 8-22-6.

Synopsis: Vanderburgh County air commerce development. Establishes the Vanderburgh County regional air commerce development authority (authority). Permits the authority to establish an air commerce park in the county. Permits the authority to designate the air commerce park as an allocation area for the purposes of property tax increment financing (TIF). Provides that increased revenue from local option income taxes paid by persons employed in the air commerce park (in excess of the amount of those taxes paid before establishment of the park) is to be paid to the authority for use in the development and financing of certain projects in, serving, or benefiting the air commerce park. Authorizes the authority to issue bonds. Establishes a tax credit against the state adjusted gross income tax, the financial institutions tax, the insurance premiums tax, and local option income taxes for investments made for the development, redevelopment, or rehabilitation of property in the air commerce park.

Effective: Upon passage.

Becker

January 11, 2006, read first time and referred to Committee on Tax and Fiscal Policy.

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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 382

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.1-31 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]:

4 **Chapter 31. Air Commerce Park Investment Credit**

5 **Sec. 1. As used in this chapter, "pass through entity" means:**

- 6 (1) a corporation that is exempt from the adjusted gross
7 income tax under IC 6-3-2-2.8(2);
8 (2) a partnership;
9 (3) a limited liability company; or
10 (4) a limited liability partnership.

11 **Sec. 2. As used in this chapter, "qualified investment" means the**
12 **amount of a taxpayer's expenditures that is:**

- 13 (1) for development, redevelopment, or rehabilitation of
14 property located within the Vanderburgh County air
15 commerce park designated under IC 8-22-6;
16 (2) made under a plan adopted by the Vanderburgh County
17 regional air commerce development authority under



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1 IC 8-22-6; and

2 (3) approved by the Indiana economic development
3 corporation before the expenditure is made.

4 Sec. 3. As used in this chapter, "state and local tax liability"
5 means a taxpayer's total tax liability incurred under:

6 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

7 (2) IC 6-3.5-1.1 (county adjusted gross income tax);

8 (3) IC 6-3.5-6 (county option income tax);

9 (4) IC 6-3.5-7 (county economic development income tax);

10 (5) IC 6-5.5 (the financial institutions tax); and

11 (6) IC 27-1-18-2 (the insurance premiums tax);

12 as computed after the application of all credits that under
13 IC 6-3.1-1-2 are to be applied before the credit provided by this
14 chapter.

15 Sec. 4. As used in this chapter, "taxpayer" means an individual
16 or entity that has any state and local tax liability.

17 Sec. 5. (a) Subject to section 7 of this chapter, a taxpayer is
18 entitled to a credit against the taxpayer's state and local tax
19 liability for a taxable year if the taxpayer makes a qualified
20 investment in that year.

21 (b) The amount of the credit to which a taxpayer is entitled is
22 the qualified investment made by the taxpayer during the taxable
23 year multiplied by twenty-five percent (25%).

24 (c) A taxpayer may assign any part of the credit to which the
25 taxpayer is entitled under this chapter to a lessee of property that
26 is developed, redeveloped, or rehabilitated as described in section
27 2 of this chapter. A credit that is assigned under this subsection
28 remains subject to this chapter.

29 (d) An assignment under subsection (c) must be in writing and
30 both the taxpayer and the lessee must report the assignment on
31 their state tax return for the year in which the assignment is made,
32 in the manner prescribed by the department. The taxpayer may
33 not receive value in connection with the assignment under
34 subsection (c) that exceeds the value of the part of the credit
35 assigned.

36 (e) If a pass through entity is entitled to a credit under this
37 chapter but does not have state and local tax liability against which
38 the tax credit may be applied, a shareholder, partner, or member
39 of the pass through entity is entitled to a tax credit equal to:

40 (1) the tax credit determined for the pass through entity for
41 the taxable year; multiplied by

42 (2) the percentage of the pass through entity's distributive

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income to which the shareholder, partner, or member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same investment.

(f) A taxpayer that is otherwise entitled to a credit under this chapter for a taxable year may claim the credit regardless of whether any income tax incremental amount has been:

(1) deposited in the incremental tax financing fund established for the air commerce park; or

(2) allocated to the park.

Sec. 6. If the amount of the credit determined under section 5 of this chapter for a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the immediately following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback or refund of any unused credit.

Sec. 7. (a) A taxpayer is not entitled to claim the credit provided by this chapter to the extent that the taxpayer substantially reduces or ceases its operations in Indiana in order to relocate them within the air commerce park. Determinations under this section shall be made by the department. The department shall adopt a proposed order concerning a taxpayer's eligibility for the credit based on subsection (b) and the following criteria:

(1) A site-specific economic activity, including sales, leasing, service, manufacturing, production, storage of inventory, or any activity involving permanent full-time or part-time employees, shall be considered a business operation.

(2) With respect to an operation located outside the air commerce park (referred to in this section as a "nonpark operation"), any of the following that occurs during the twelve (12) months before the completion of the physical relocation of all or part of the activity described in subdivision (1) from the nonpark operation to the district as compared with the twelve (12) months before that twelve (12) months shall be considered a substantial reduction:

(A) A reduction in the average number of full-time or

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part-time employees of the lesser of one hundred (100) employees or twenty-five percent (25%) of all employees.

(B) A twenty-five percent (25%) reduction in the average number of goods manufactured or produced.

(C) A twenty-five percent (25%) reduction in the average value of services provided.

(D) A ten percent (10%) reduction in the average value of stored inventory.

(E) A twenty-five percent (25%) reduction in the average amount of gross income.

(b) Notwithstanding subsection (a), a taxpayer that would otherwise be disqualified under subsection (a) is eligible for the credit provided by this chapter if the taxpayer meets at least one (1) of the following conditions:

(1) The taxpayer relocates all or part of its nonpark operation for any of the following reasons:

(A) The lease on property necessary for the nonpark operation has been involuntarily lost through no fault of the taxpayer.

(B) The space available at the location of the nonpark operation cannot accommodate planned expansion needed by the taxpayer.

(C) The building for the nonpark operation has been certified as uninhabitable by a state or local building authority.

(D) The building for the nonpark operation has been totally destroyed through no fault of the taxpayer.

(E) The renovation and construction costs at the location of the nonpark operation are more than one and one-half (1 1/2) times the costs of purchase, renovation, and construction of a facility in the air commerce park, as certified by three (3) independent estimates.

(F) The taxpayer had existing operations in the district and the nonpark operations relocated to the district are an expansion of the taxpayer's operations in the district.

A taxpayer is eligible for the credit provided by this chapter under clause (C) or (D) only if renovation and construction costs at the location of the nonpark operation are more than one and one-half (1 1/2) times the cost of purchase, renovation, and construction of a facility in the air commerce park. These costs must be certified by three (3) independent estimates.

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(2) The taxpayer has not terminated or reduced the pension or health insurance obligations payable to employees or former employees of the nonpark operation without the consent of the employees.

(c) The department shall cause to be delivered to the taxpayer and to any person who testified before the department in favor of disqualification of the taxpayer a copy of the department's proposed order. The taxpayer and these persons shall be considered parties for purposes of this section.

(d) A party who wishes to appeal the proposed order of the department shall, within ten (10) days after the party's receipt of the proposed order, file written objections with the department. The department shall immediately forward copies of the objections to the director of the budget agency and the board of the Indiana economic development corporation. A hearing panel composed of the commissioner of the department or the commissioner's designee, the director of the budget agency or the director's designee, and the president of the Indiana economic development corporation or the president's designee shall set the objections for oral argument and give notice to the parties. A party at its own expense may cause to be filed with the hearing panel a transcript of the oral testimony or any other part of the record of the proceedings. The oral argument shall be on the record filed with the hearing panel. The hearing panel may hear additional evidence or remand the action to the department with instructions appropriate to the expeditious and proper disposition of the action. The hearing panel may adopt the proposed order of the department, may amend or modify the proposed order, or may make such order or determination as is proper on the record. The affirmative votes of at least two (2) members of the hearing panel are required for the hearing panel to take action on any measure. The taxpayer may appeal the decision of the hearing panel to the tax court in the same manner that a final determination of the department may be appealed under IC 33-26.

(e) If no objections are filed, the department may adopt the proposed order without oral argument.

(f) A determination that a taxpayer is not entitled to the credit provided by this chapter as a result of a substantial reduction or cessation of operations applies to credits that would otherwise arise in the taxable year in which the substantial reduction or cessation occurs and in all subsequent years.

Sec. 8. To receive the credit provided by this section, a taxpayer

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1 must claim the credit on the taxpayer's annual state tax return or
 2 returns in the manner prescribed by the department of state
 3 revenue. The taxpayer shall submit to the department of state
 4 revenue all information that the department determines is
 5 necessary for the calculation of the credit provided by this chapter
 6 and for the determination of whether an expenditure was for a
 7 qualified investment.

8 SECTION 2. IC 8-22-6 IS ADDED TO THE INDIANA CODE AS
 9 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
 10 PASSAGE]:

11 **Chapter 6. Vanderburgh County Regional Air Commerce**
 12 **Development Authority**

13 **Sec. 1. The general assembly finds the following:**

14 (1) Vanderburgh County and the Evansville-Vanderburgh
 15 County airport authority face unique and distinct challenges
 16 and opportunities related to transportation and economic
 17 development that are different in scope and type than those
 18 faced by other units of local government in Indiana due to:

19 (A) their status in relationship to the southwest extension
 20 of Interstate Highway 69;

21 (B) their distance from other major centers of commerce,
 22 industry and economic activity in the state; and

23 (C) the relative inaccessibility of southwest Indiana to
 24 markets.

25 (2) A unique approach is required to fully take advantage of
 26 the economic development potential of the airport authority
 27 and Vanderburgh County.

28 (3) The powers and responsibilities provided to the
 29 Vanderburgh County regional air commerce development
 30 authority created by this chapter are appropriate and
 31 necessary to carry out the public purposes of encouraging
 32 economic development and further facilitating the provision
 33 of infrastructure projects, economic development projects,
 34 and airport authority projects in southwest Indiana.

35 (4) The establishment of the Vanderburgh County regional air
 36 commerce development authority and an air commerce park
 37 serves a public purpose and is of benefit to the general welfare
 38 of the local governments in southwest Indiana, including
 39 Vanderburgh County, and the state by encouraging
 40 investment, job creation and retention, and economic growth
 41 and diversity.

42 **Sec. 2. This chapter applies to Vanderburgh County.**

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1 Sec. 3. Except as otherwise provided by this chapter, the
2 definitions in:

3 (1) IC 36; and

4 (2) this article;

5 apply throughout this chapter.

6 Sec. 4. As used in this chapter, "airport authority" refers to the
7 Evansville-Vanderburgh County airport authority established
8 under IC 8-22-3-4(d).

9 Sec. 5. As used in this chapter, "airport authority project"
10 means a project that can be financed with the proceeds of bonds
11 issued by an airport authority under IC 8-22-3.

12 Sec. 6. As used in this chapter, the following terms have the
13 meanings set forth in IC 6-1.1-1:

14 (1) Assessment date.

15 (2) Assessed value or assessed valuation.

16 (3) Taxing district.

17 (4) Taxing unit.

18 Sec. 7. As used in this chapter, "base assessed value" means:

19 (1) the net assessed value of all the taxable property located in
20 an air commerce park as finally determined for the
21 assessment date immediately preceding the effective date of
22 the allocation provision of a resolution adopted under section
23 26 of this chapter; plus

24 (2) to the extent it is not included in subdivision (1), the net
25 assessed value of property that is assessed as residential
26 property under the rules of the department of local
27 government finance, as finally determined for any assessment
28 date after the effective date of the allocation provision.

29 Sec. 8. As used in this chapter, "board" refers to the board of
30 directors of the development authority.

31 Sec. 9. As used in this chapter, "county" refers to Vanderburgh
32 County.

33 Sec. 10. As used in this chapter, "development authority" refers
34 to the Vanderburgh County regional air commerce development
35 authority created by this chapter.

36 Sec. 11. As used in this chapter, "distribution, transportation,
37 and logistical distribution project" includes any capital
38 improvement having as its primary purpose the movement of:

39 (1) goods;

40 (2) people; or

41 (3) any commodity.

42 Sec. 12. As used in this chapter, "economic development

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project" means a project that:

(1) the development authority determines will:

(A) promote significant opportunities for the gainful employment of residents of southwest Indiana;

(B) attract a major new business enterprise to southwest Indiana; or

(C) retain or expand a significant business enterprise within southwest Indiana; and

(2) involves an expenditure for:

(A) the acquisition of land;

(B) interests in land;

(C) site improvements;

(D) infrastructure improvements;

(E) buildings;

(F) structures;

(G) rehabilitation, renovation, and enlargement of buildings and structures;

(H) machinery;

(I) equipment;

(J) furnishings; or

(K) facilities;

or any combination of these.

Sec. 13. As used in this chapter, "eligible political subdivision" means the following:

(1) The airport authority.

(2) The county.

(3) A political subdivision located in the county.

Sec. 14. As used in this chapter, "income tax base period amount" means the total amount of the following taxes paid by employees employed in the territory comprising an air commerce park with respect to wages and salary earned for work in the air commerce park for the state fiscal year that precedes the date on which the air commerce park was designated under section 25 of this chapter:

(1) The county adjusted gross income tax.

(2) The county option income tax.

(3) The county economic development income tax.

Sec. 15. As used in this chapter, "income tax incremental amount" means the remainder of:

(1) the total amount of county adjusted gross income tax, county option income taxes, and county economic development income taxes paid by employees employed in the

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territory comprising the air commerce park with respect to wages and salary earned for work in the territory comprising the air commerce park for a particular state fiscal year; minus

(2) the income tax base period amount; as determined by the department of state revenue.

Sec. 16. As used in this chapter, "infrastructure project" includes:

- (1) a sanitary sewer system or wastewater treatment facility;
- (2) a park or recreational facility;
- (3) a street, road, or bridge;
- (4) a drainage or flood control facility;
- (5) a storm water management improvements;
- (6) a water treatment, water storage, or water distribution facility;
- (7) a facility designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination;
- (8) a rail line, electric, gas, telephone or other communications, or any other type of utility line or pipeline, or other similar or related structure or improvement, together with necessary easements for the structure or improvement;
- (9) telecommunications facilities and improvements; and
- (10) any security measures necessary to protect facilities or improvements described in this section.

Sec. 17. As used in this chapter, "project" includes the following:

- (1) An infrastructure project.
- (2) An airport authority project.
- (3) A distribution, transportation, or logistical distribution project.
- (4) An economic development project.

Sec. 18. The Vanderburgh County regional air commerce development authority is created as a political subdivision of the state to establish an air commerce park in order to develop, acquire, construct, reconstruct, renovate, improve, and finance projects located in, serving, or benefiting the air commerce park.

Sec. 19. (a) The development authority is governed by a board directors composed of the following members, each of whom must be a resident of Indiana:

- (1) The members of the airport authority.
- (2) The executive of the most populous municipality in the

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1 county.

2 (3) The president of the executive of the county.

3 (4) A resident of the county, appointed by the governor.

4 (b) The term of a member described under subsection (a)(1)
5 through (a)(3) is coextensive with the member's term of office as:

6 (1) a member of the airport authority;

7 (2) the executive of the most populous municipality in the
8 county; or

9 (3) the president of the executive of the county.

10 (c) A member appointed under subsection (a)(4) is entitled to
11 serve a one (1) year term. A member may be reappointed to
12 subsequent terms.

13 (d) A vacancy that occurs on the board under:

14 (1) subsections (a)(1) through (a)(3) shall be filled by the
15 person filling the office of:

16 (A) a member of the airport authority;

17 (B) the executive of the most populous municipality in the
18 county; or

19 (C) the president of the executive of the county; or

20 (2) subsection (a)(4) shall be filled by a person appointed by
21 the governor for the remainder of the vacated term.

22 Sec. 20. (a) The members of the board shall elect from among
23 their number a chairman, a vice chairman, and other officers they
24 consider necessary.

25 (b) The members of the board are entitled to reimbursement for
26 traveling expenses and other expenses actually incurred in
27 connection with their duties as provided by law. Members are not
28 entitled to a per diem or any other compensation while performing
29 their duties.

30 Sec. 21. (a) The board shall meet at least quarterly.

31 (b) The chairman of the board or any two (2) members of the
32 board may call a special meeting of the board.

33 (c) Five (5) members of the board constitute a quorum.

34 (d) The affirmative votes of at least five (5) members of the
35 board are necessary to authorize any action of the development
36 authority.

37 Sec. 22. The board may adopt the bylaws and rules that the
38 board considers necessary for the proper conduct of the board's
39 duties and the safeguarding of the development authority's funds
40 and property.

41 Sec. 23. The development authority shall do the following:

42 (1) Designate a geographic area as an air commerce park and

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1 approve a plan for the development of the park under section
2 25 of this chapter.

3 (2) Promote the development of the air commerce park in the
4 manner that best serves the interests of the units located in
5 southwest Indiana and their inhabitants.

6 (3) Cooperate with the airport authority and departments and
7 agencies of eligible political subdivisions and of other
8 governmental entities, including the state and the federal
9 government, in the manner that best serves the purposes of
10 this chapter.

11 (4) Make findings and reports on its activities under this
12 chapter and keep the reports available for inspection by the
13 public.

14 (5) Select and acquire air commerce property to be developed
15 by private enterprise, the state, or an eligible political
16 subdivision under this chapter.

17 (6) Sell or transfer acquired air commerce property and other
18 real and personal property to private enterprise or state or
19 local government in the manner that best serves the social and
20 economic interests of the eligible political subdivisions and
21 their inhabitants.

22 Sec. 24. (a) The development authority may do any of the
23 following:

24 (1) Own, use, lease, rent, purchase, acquire, and dispose of by
25 purchase, exchange, gift, bequest, grant, condemnation, lease,
26 or sublease, on the terms and conditions determined by the
27 development authority, any real or personal property located
28 in the air commerce park.

29 (2) After giving notice, enter upon any lots or lands for the
30 purpose of surveying or examining them to determine the
31 location of a project.

32 (3) Make or enter into all contracts and agreements necessary
33 or incidental to the performance of its duties and the
34 execution of its powers under this chapter.

35 (4) Sue, be sued, plead, and be impleaded.

36 (5) Design, order, contract for, and construct, reconstruct,
37 and renovate a project or improvements to a project.

38 (6) Appoint an executive director and employ and fix the
39 compensation of appraisers, real estate experts, engineers,
40 architects, surveyors, attorneys, accountants, auditors, clerks,
41 construction managers, and any consultants or employees that
42 are necessary or desired by the development authority in

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exercising its powers or carrying out its duties under this chapter.

(7) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source.

(8) Provide financial assistance, in the manner that best serves the purposes of this chapter, including grants and loans, to enable private enterprise to develop, redevelop, and rehabilitate property in the air commerce park or otherwise enable private enterprise to provide social and economic benefits to the citizens of the county.

(9) Finance, improve, construct, reconstruct, renovate, and acquire:

(A) airport authority projects;

(B) infrastructure projects;

(C) economic development projects; and

(D) transportation, logistics, and distribution projects;

located in, serving, or benefiting the air commerce park.

(b) If the development authority is unable to agree with the owners, lessees, or occupants of any real property that is located in the air commerce park and is selected for the purposes of this chapter, the development authority may proceed under IC 32-24-1 to procure the condemnation of the property. The development authority may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the public purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the development authority of the property involved; and

(3) sets out any other facts that the development authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition.

Sec. 25. (a) Subject to subsection (c), the development authority may:

(1) designate as an air commerce park the area consisting of approximately two thousand four hundred (2,400) acres northeast of the airport, including an area five (5) miles wide on the north side of Highway 57 to the county line near Interstate Highway 64; and

(2) approve a plan for the development of the air commerce

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1 park.

2 (b) In conjunction with the development plan, the development
3 authority may adopt a resolution declaring that a geographic area
4 is an air commerce park and approving the plan if it makes the
5 following findings:

6 (1) The plan for air commerce park will accomplish the public
7 purposes of this chapter, supported by specific findings of fact
8 to be adopted by the development authority.

9 (2) The public health and welfare will be benefited by
10 accomplishment of the plan for the air commerce park.

11 (3) The plan for the air commerce park conforms to other
12 development and redevelopment plans for the units in which
13 the air commerce park is located.

14 (c) The air commerce park may include territory within the
15 corporate boundaries of the county. However, an air commerce
16 park may not include any area of land that constitutes part of an
17 existing:

18 (1) economic development area, a redevelopment project area,
19 or an urban renewal area under IC 36-7-14;

20 (2) community revitalization enhancement district under
21 IC 36-7-13; or

22 (3) certified technology park under IC 36-7-32;

23 unless the development authority first obtains the consent of the
24 political subdivision that established the area, district, or park. An
25 allocation provision established for an existing area, district, or
26 park described in subdivision (1) through (3) takes precedence over
27 an allocation provision established under section 26 of this chapter.

28 (d) The resolution must state the general boundaries of the air
29 commerce park and identify the interests in the land within the
30 boundaries of the air commerce park, if any, that the development
31 authority proposes to acquire or lease.

32 (e) For the purpose of adopting a resolution under subsection
33 (b), it is sufficient to describe the boundaries of the area by its
34 location in relation to public ways or streams, or otherwise, as
35 determined by the development authority. Property excepted from
36 the designation may be described by street numbers or location.

37 Sec. 26. (a) The development authority may adopt a resolution
38 designating an air commerce park as an allocation area and
39 establish an allocation fund for purposes of the allocation and
40 distribution of property taxes.

41 (b) After adoption of the resolution under subsection (a), the
42 development authority shall:

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(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit that has authority to levy property taxes in the geographic area where the air commerce park is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the air commerce park, including the following:

(i) The estimated economic benefits and costs incurred by the air commerce park, as measured by increased employment and anticipated growth of real property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the air commerce park and must state that written remonstrances may be filed with the development authority until the time designated for the hearing. The notice must also name the place, date, and time when the development authority will receive and hear remonstrances and objections from persons interested in or affected by the proceedings pertaining to the proposed allocation area and will determine the public utility and benefit of the proposed allocation area. The development authority shall file the information required by subdivision (2) with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the public hearing. All persons affected in any manner by the hearing shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the development authority affecting the allocation area if the development authority gives the notice required by this section.

(c) At the hearing, which may be recessed and reconvened periodically, the development authority shall hear all persons interested in the proceedings and shall consider all written remonstrances and objections that have been filed. After considering the evidence presented, the development authority shall take final action determining the public utility and benefit of the proposed allocation area confirming, modifying and confirming, or rescinding the resolution. The final action taken by the development authority shall be recorded and is final and conclusive, except that an appeal may be taken in the manner prescribed by section 27 of this chapter.

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1 **Sec. 27. (a)** A person who files a written remonstrance with the
 2 development authority under section 26 of this chapter and who is
 3 aggrieved by the final action taken may, within ten (10) days after
 4 that final action, file with the office of the clerk of the circuit or
 5 superior court of the county a copy of the development authority's
 6 resolution and the person's remonstrance against the resolution,
 7 together with the person's bond as provided by IC 34-13-5-7.

8 **(b)** An appeal under this section shall be promptly heard by the
 9 court without a jury. All remonstrances upon which an appeal has
 10 been taken shall be consolidated and heard and determined within
 11 thirty (30) days after the time of filing of the appeal. The court
 12 shall decide the appeal based on the record and evidence before the
 13 development authority, not by trial de novo, and may confirm the
 14 final action of the development authority or sustain the
 15 remonstrances. The judgment of the court is final and conclusive,
 16 unless an appeal is taken as in other civil actions.

17 **Sec. 28. (a)** After designating an air commerce park under
 18 section 25 of this chapter, the development authority shall send to
 19 the department of state revenue:

- 20 (1) a certified copy of the designation of the air commerce
 21 park under section 25 of this chapter; and
- 22 (2) a complete list of the employers in the air commerce park
 23 and the street names and the range of street numbers of each
 24 street in the air commerce park.

25 The development authority shall update the list provided under
 26 subdivision (2) before July 1 of each year.

27 **(b)** Not later than sixty (60) days after receiving a copy of the
 28 designation of the air commerce park, the department of state
 29 revenue shall determine the income tax base period amount.

30 **Sec. 29. (a)** An allocation provision adopted under section 26 of
 31 this chapter must:

- 32 (1) apply to the entire air commerce park; and
- 33 (2) require that any property tax on taxable property
 34 subsequently levied by or for the benefit of any public body
 35 entitled to a distribution of property taxes in the air
 36 commerce park be allocated and distributed as provided in
 37 subsections (b) and (c).

38 **(b)** Except as otherwise provided in this section, the proceeds of
 39 the taxes attributable to the lesser of:

- 40 (1) the assessed value of the taxable property for the
 41 assessment date with respect to which the allocation and
 42 distribution is made; or

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(2) the base assessed value;
shall be allocated and, when collected, paid into the funds of the respective taxing units.

(c) Except as provided in subsection (d), all the property tax proceeds that exceed those described in subsection (b) shall be allocated to the development authority for the air commerce park and, when collected, paid into the air commerce park allocation fund established under section 34 of this chapter.

(d) Before July 15 of each year, the development authority shall do the following:

(1) Determine the amount, if any, by which the property tax proceeds to be deposited in the air commerce park fund will exceed the amount necessary for the purposes described in section 34 of this chapter.

(2) Notify the respective county auditors of the amount, if any, of excess tax proceeds that the development authority has determined may be allocated to the respective taxing units in the manner prescribed in subsection (b). The development authority may not authorize an allocation of property tax proceeds under this subdivision if to do so would endanger the interests of the holders of bonds described in section 34 of this chapter.

(e) Notwithstanding any other law, each assessor shall, upon petition of the development authority, reassess the taxable property situated upon or in, or added to, the air commerce park effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the air commerce park, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the taxable property as valued without regard to this section; or

(2) the base assessed value.

Sec. 30. (a) A development authority may, by resolution, provide that each taxpayer in the air commerce park that has also been designated as an allocation area is entitled to an additional credit for taxes (as defined in IC 6-1.1-21-2) that, under IC 6-1.1-22-9, are due and payable in May and November of that year. One-half (1/2) of the credit shall be applied to each installment of property taxes. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or

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part of the air commerce park:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) the part of the respective county's total eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by
(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by
(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to the air commerce park allocation fund under section 34 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated and paid into the air commerce park allocation fund under section 34 of this chapter.

(b) The additional credit under subsection (a) shall be:

(1) computed on an aggregate basis of all taxpayers in a taxing district that contains all or part of an air commerce park; and
(2) combined on the tax statement sent to each taxpayer.

(c) Concurrently with the mailing or other delivery of the tax statement or any corrected tax statement to each taxpayer, as required by IC 6-1.1-22-8(a), each county treasurer shall for each tax statement also deliver to each taxpayer in an air commerce park who is entitled to the additional credit under subsection (a) a notice of additional credit. The actual dollar amount of the credit, the taxpayer's name and address, and the tax statement to which the credit applies must be stated on the notice.

(d) Notwithstanding any other law, a taxpayer in an air commerce park is not entitled to a credit for property tax replacement under IC 6-1.1-21-5.

Sec. 31. (a) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that the state board of accounts and department of local government finance consider appropriate for the implementation of an allocation area under this chapter.

(b) After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base

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1 assessed value one (1) time to neutralize any effect of the general
2 reassessment on the property tax proceeds allocated to the air
3 commerce park under section 26 of this chapter.

4 Sec. 32. Before the first business day in October of each year,
5 the department of state revenue shall calculate the income tax
6 incremental amount for the preceding state fiscal year for an air
7 commerce park designated under this chapter.

8 Sec. 33. (a) The treasurer of state shall establish an incremental
9 tax financing fund for an air commerce park designated under this
10 chapter. The fund shall be administered by the treasurer of state.
11 Money in the fund does not revert to the state general fund at the
12 end of a state fiscal year.

13 (b) Subject to subsection (c), the amount that shall be deposited
14 during each state fiscal year in the incremental tax financing fund
15 established for an air commerce park under subsection (a) is the
16 total amount of the following taxes paid by employees employed in
17 the air commerce park with respect to wages earned for work in
18 the air commerce park, until the amount deposited equals the
19 income tax incremental amount:

20 (1) The county adjusted gross income tax.

21 (2) The county option income tax.

22 (3) The county economic development income tax.

23 (c) On or before the twentieth day of each month, all amounts
24 held in the incremental tax financing fund established for an air
25 commerce park shall be distributed to the development authority
26 for deposit in the air commerce park allocation fund established
27 under section 26 of this chapter.

28 Sec. 34. (a) At the same time the development authority
29 establishes an air commerce park under this chapter it shall
30 establish an air commerce park allocation fund to receive:

31 (1) property tax proceeds allocated under section 26 of this
32 chapter; and

33 (2) money distributed to the development authority under
34 section 33 of this chapter.

35 (b) Money deposited in the air commerce park fund may be used
36 by the redevelopment commission only for one (1) or more of the
37 following purposes:

38 (1) Acquisition, improvement, preparation, demolition,
39 disposal, construction, reconstruction, remediation,
40 rehabilitation, restoration, preservation, maintenance, repair,
41 furnishing, and equipping of projects.

42 (2) Payment of the principal of and interest on any obligations

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that are payable solely or in part from money deposited in the fund and that are incurred by the development authority for the purpose of financing or refinancing projects in, serving, or benefiting the air commerce park.

(3) Establishment, augmentation, or restoration of the debt service reserve for obligations described in subdivision (2).

(4) Payment of premiums on the redemption before maturity of bonds described in subdivision (2).

(5) Payment of the principal of and interest on bonds issued by an eligible political subdivision to pay for projects in, serving, or benefiting the air commerce park.

(6) Reimbursement to a unit for expenditures made for public facilities in, serving, or benefiting the air commerce park.

(7) Payment of expenses incurred by the development authority for projects that are in, serving, or benefiting the air commerce park.

(c) The air commerce park fund may not be used for operating expenses of the development authority.

Sec. 35. (a) The development authority may issue bonds for the purpose of providing projects under this chapter.

(b) The bonds are payable solely from:

(1) property tax proceeds allocated to the air commerce park allocation fund under section 26 of this chapter;

(2) money distributed to the development authority under section 33 of this chapter;

(3) other funds available to the development authority; or

(4) a combination of the methods in subdivisions (1) through (3).

(c) The bonds must be authorized by a resolution of the board.

(d) The terms and form of the bonds must be set out either in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds must mature within fifty (50) years.

(f) The development authority shall sell the bonds at public or private sale upon the terms determined by the development authority.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of providing projects in, serving, or benefiting an air commerce park, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of the projects and all related

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- buildings, facilities, structures, and improvements;
- (2) acquisition of a site and clearing and preparing the site for construction;
- (3) equipment, facilities, structures, and improvements that are necessary or desirable to make the projects suitable for use and operation;
- (4) architectural, engineering, consultant, and attorney's fees;
- (5) incidental expenses in connection with the issuance and sale of the bonds;
- (6) reserves for principal and interest;
- (7) interest during construction and for a period thereafter determined by the development authority, but not to exceed five (5) years;
- (8) financial advisory fees;
- (9) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
- (10) in the case of a refunding or refinancing, payment of the principal of, redemption premiums, if any, for, and interest on, the bonds being refunded or refinanced.

Sec. 36. (a) The development authority may secure bonds issued under this chapter by a trust indenture between the development authority and a corporate trustee, which may be a trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

- (1) pledge or assign revenue received by the development authority, amounts deposited in the air commerce park allocation fund, and lease rentals, receipts, and income from leased projects, but may not mortgage land or projects;
- (2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the development authority and the board;
- (3) set forth the rights and remedies of bondholders and trustees; and
- (4) restrict the individual right of action of bondholders.

(c) A pledge or assignment made by the development authority under this section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. A trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.

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1 **Sec. 37. This chapter contains full and complete authority for**
2 **the issuance of bonds. No law, procedure, proceeding, publication,**
3 **notice, consent, approval, order, or act by the board or any other**
4 **officer, department, agency, or instrumentality of the state or of**
5 **any political subdivision is required to issue any bonds, except as**
6 **prescribed in this chapter.**

7 **SECTION 3. [EFFECTIVE UPON PASSAGE] IC 6-3.1-31, as**
8 **added by this act, applies to taxable years beginning after**
9 **December 31, 2005.**

10 **SECTION 4. An emergency is declared for this act.**

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